

KARNATAKA ACT NO 37 OF 2010

THE KARNATAKA INFORMATION TECHNOLOGY INVESTMENT REGIONS ACT, 2010

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STATEMENT OF OBJECTS AND REASONS

ACT 37 OF 2010.- The Government of India had published a policy resolution for setting up of Information Technology Investment Regions (ITIRs) on 28th May 2008 to promote investment in the Information Technology / Information Technology Enabled Services / Electronic Hardware Manufacturing Units, which have proven to be significant economic growth engines.

The policy resolution envisages the implementation of the ITIR project through a statute by the State Government wherever necessary.

It is considered necessary to enact a legislation to provide for the following, namely:-

- (1) declaration of Information Technology Investment Regions;
- (2) infrastructure facilities to be provided by the State Government;
- (3) additional package of incentives for the development of ITIRs;
- (4) acquisition of land for ITIRs;
- (5) allotment of land by the Management Board;
- (6) constitution of the Management Board and its functions;
- (7) appointment of the Chief Executive Officer and his functions, powers and duties;
- (8) officers and staff of the Board;
- (9) constitution of State Level Empowered Committee and its functions;
- (10) Board's fund and its application, account and audit and annual report;
- (11) penalties etc.,

Hence the Bill.

[L.A.BILL NO.17 OF 2010, FILE NO.Samvyashae 4 Shasana 2010]

[Entry 18 and 24 of List II of the Seventh Schedule to the Constitution of India.]

KARNATAKA ACT NO 37 OF 2010

(First Published in the Karnataka Gazette Extra-ordinary on the thirty first day of July, 2010)

THE KARNATAKA INFORMATION TECHNOLOGY INVESTMENT REGIONS ACT, 2010

(Received the assent of the Governor on the twenty ninth day of July, 2010)

An Act to provide for the establishment of information technology investment regions in the State of Karnataka to promote investment and to augment exports and generate employment.

Whereas it is expedient to promote investment, boost exports and generate employment in the information Technology (IT), information Technology enabled services (ITES), Electronic Hardware manufacturing (EHM) units in the State of Karnataka;

Be it enacted by the Karnataka State Legislature in the sixty first year of the Republic of India as follows:-

CHAPTER - I

PRELIMINARY

1. Short title and commencement.- (1) This Act may be called the Karnataka Information Technology Investment Regions Act, 2010.

(2) It shall come into force on such date as the State Government, may, by notification, appoint.

2. Definitions.- In this Act, unless the context otherwise requires:-

(1) **“Authority”** means the Karnataka Industrial Area Development Board constituted under the Karnataka Industrial Area Development Act, 1966(Karnataka Act, 18 of 1966), the Karnataka Housing Board constituted under the Karnataka Housing Board Act, 1962, (Karnataka Act, 10 of 1993) and such other Authority or Board, by whatever name called, empowered to acquire land;

(2) **“Board”** means the Management Board Constituted under section 8;

(3) **“ Chief Executive Officer”** means the Chief Executive Officer of the Board;

(4) **“Developer or Co-developer”** means a Developer or Co-developer who has been selected as such by the State Government through a transparent mechanism;

(5) **“Feasibility report”** means the Feasibility report prepared under sub-section (1) of section 3;

(6) **“High Powered Committee”** means the High Powered Committee constituted by the Government of India vide Policy Resolution dated 28th May 2008 of the Ministry of Communication and Information Technology, New Delhi;

(7) **“Information Technology Investment Regions (ITIRs)”** means the Information Technology Investment Regions declared under section 3;

(8) **“Nodal Department”** means the Department of Information Technology, Biotechnology and Science & Technology of the State Government;

(9) **“Policy Resolution”** means policy resolution for setting up of Information Technology Investment Regions (ITIRs) issued by Ministry of Communications and Information Technology (Department of Information Technology) on 28th May 2008 published in the Government of India Gazette;

(10) **“State Level Empowered Committee”** means the State Level Empowered Committee constituted under Section 12;

CHAPTER - II

DECLARATION OF INFORMATION TECHNOLOGY

INVESTMENT REGIONS

3. Declaration of Information Technology Investment Regions.- (1) The State Government shall identify a suitable location (preferably non-agricultural land), for setting up of the Information Technology Investment Regions and prepare the project and submit the proposal for approval of the Central Government. For this purpose, it shall conduct a techno-economic pre-feasibility survey, through a suitable agency for preparation of a feasibility report, which would inter alia include the following, namely:-

- (a) Demarcation of the proposed area;
- (b) Nature and extent of infrastructure required;
- (c) Land use pattern, i.e., dividing the entire area into specified land uses such as Information technology, industrial, commercial, residential, hospitals, schools, parks, roads etc.;
- (d) Preparation of a master plan that would clearly identify the above uses with respect to specified plots of land and also include development parameters such as covered area, height restrictions and Floor Surface Integer (FSI);
- (e) The likely cost of land acquisition and of development of infrastructure phasing of the entire plan into two phases where the first phase shall not exceed twenty percent of the notified area.

(2) After receiving the approval of the Government of India, to the proposal, the State Government may, by notification, declare Information Technology Investment Regions (ITIRs) for the purpose of promoting investment in the Information Technology, Information Technology Enabled Services and Electronic Hardware Manufacturing units through the use of common infrastructure and support services.

(3) The Information Technology Investment Regions,-

- (a) shall be specifically delineated investment regions with a minimum area of around forty square kilometers planned for the establishment of Information Technology/Information Technology Enabled Services and Electronic Hardware Manufacturing Units (EHM Units) facilities along with the associated services and infrastructure;
- (b) shall be a combination of production units, public utilities, logistic, environmental protection mechanisms, residential areas and administrative services;
- (c) shall have processing facilities where Information Technology/Information Technology Enabled Services and electronic Hardware Manufacturing Units, along with associated logistics and other services/and required infrastructure shall be located;
- (d) shall have a non-processing area, to include residential, commercial and other social and institutional infrastructure;
- (e) shall have a minimum processing area of forty percent of the total designated area. Such processing area may or may not be contiguous;
- (f) may include one or more Special Economic Zones (SEZs), Industrial Parks, Free Trade and Warehousing Zones, Export Oriented Units, or Growth Centres, duly notified by the State Government under this Act. All the benefits available under the relevant Acts in force or policy/or policies shall continue to remain available to the said Zones or Parks, as the case may be forming part of the Information Technology Investment Regions;
- (g) shall cover existing settlements/industries and estates/services and shall, therefore, benefit from and be complementary to the region.
- (h) shall also include the new integrated townships.

(4) Each Information Technology Investment Regions may have some anchoring Information Technology/Information Technology Enabled Services and Electronic Hardware Manufacturing Units, which shall play an important role in the establishment of Information Technology Investment Regions.

(5) The internal infrastructure of the Information Technology Investment Regions shall be built and managed by a Developer or Developers/or a group of Co-Developers selected by the State Government through a transparent mechanism in accordance with the provisions of the Karnataka Transparency in Public Procurement Act, 1999 (Karnataka Act 29 of 2000). The external linkages may be provided by Government of India and the State Government.

(6) The users of external as well as internal infrastructure shall pay for its use, except to the extent that the central or State Government supports the service through budgetary resources.

(7) After declaration under sub-section (2), the entire area of the proposed Information Technology Investment Regions shall be eligible for conversion of land from agriculture to non-agriculture use in accordance with the terms specified thereunder,

(8) The State Government shall provide infrastructure including public amenities, like public roads, parks and utility linkages within the prescribed time limit to such Information Technology Investment Regions.

(9) The declared land shall be reserved for the purpose for which it is acquired to ensure proper implementation of the Master Plan.

4. Infrastructure Facilities to be provided by the State Government.- (1) The State Government shall provide the following infrastructure to the Information Technology Investment Regions, namely:-

- (a) Power connectivity and availability of reliable and good quality power. The units may also seek open access as per the regulations of the State Electricity Regulatory Commission;
- (b) Provision of bulk requirements of water;
- (c) Road connectivity (state roads) and Mass transit connectivity to the nearest airport;
- (d) Sewerage and effluent treatment linkages, from edge of Information Technology Investment Regions, to the final disposal sites;
- (e) appropriate infrastructure to address the health, safety and environmental concerns;
- (f) appropriate and adequate residential facilities;
- (g) educational facilities;
- (h) health facilities;
- (i) Local Commercial facilities;
- (j) Recreational facilities;
- (k) Socio-cultural and entertainment facilities; and
- (l) any other facility as may be prescribed.

(2) The State Government shall ensure that the norms and standards prescribed by the Ministry of Environment and Forest are followed.

(3) Facilities specified in sub-section (1) shall be provided by the State Government through the Developer. However, the Central Government shall also assist as indicated in the policy Resolution.

5. Additional Packages of incentives.- The State Government may also notify additional package(s) of incentives for the development of the Information Technology Investment Regions and for the Information

Technology/Information Technology Enabled Services/Electronic Hardware Manufacturing units established in the Information Technology Investment Regions.

CHAPTER - III

ACQUISITION OF LAND FOR INFORMATION TECHNOLOGY INVESTMENT REGIONS AND ALLOTMENT

6. Acquisition of Land for Information Technology Investment Regions.- (1) On receipt of the proposal from the nodal department, Acquisition of land for the Information Technology Investment Regions shall be made,-

- (a) by the State Government in accordance with the provisions of Land acquisition Act, 1894; or
- (b) through the Authority in accordance with the law applicable to such authority;

subject to the payment of acquisition expenses by the Developer or Co-developer, if any, through the Management Board.

(2) The land so acquired under sub-section(1) by the state Government or Authority as the case may be, shall be transferred to the Management Board and thereafter, such land shall vest with the Management Board.

7. Allotment of Land by the Management Board.- (1) The Management Board shall subject to such terms and conditions as may be prescribed, transfer the required land as per the master plan prepared by the Management Board under clause (c) of sub-section (4) of section 8 to the Developer for development purposes under this Act.

(2) After the development of the land in accordance with the master plan, the Developer shall sell at least seventy five percent of the developed land to the entrepreneurs within such time as may be prescribed.

CHAPTER - IV

CONSTITUTION OF MANAGEMENT BOARD AND ITS FUNCTIONS

8. Constitution of Management Board and its Functions.- (1) The State Government shall constitute a Management Board for each Information Technology Investment Regions consisting of the following, namely:-

- (a) The Minister in-charge of Information Technology and Bio Technology - Chairman
- (b) The Principal Secretary to Government, Information Technology and Bio Technology - Vice-Chairman
- (c) The Principal Secretary to Government, Finance Department. - Member
- (d) The Principal Secretary to Government, Urban Development Department. - Member
- (e) The Principal Secretary to Government, Energy Department - Member
- (f) The Principal Secretary to Government, Commerce and Industries Department - Member
- (g) The Principal Secretary to Government, Revenue Department - Member
- (h) The Principal Secretary to Government,

- (i) The Member Secretary, the Karnataka State Pollution Control Board. - Member
- (j) The Chief Executive Officer - Member-Secretary

(2) The Management Board may co-opt a concerned developer or co-developer as a member, when any question pertaining to the concerned Information Technology Investment Region is being considered by the management Board.

(3) The Management Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power to acquire, hold and dispose of property both movable and immovable and to contract and shall by the said name sue or be sued.

(4) The Management Board shall perform the following functions, namely:-

- (a) It shall be responsible for the development and management of the Information Technology Investment Regions.
- (b) It shall issue/expedite state level approvals.
- (c) It shall prepare a detailed master plan in accordance with the Karnataka Town and country planning Act, 1961 earmarking the area for integrated Township, processing and non processing areas and such other particulars as may be prescribed.
- (d) It shall approve the proposals for setting up of units in the Information Technology Investment Region, after obtaining such clearances within such time limit as may be prescribed.
- (e) It shall have power to select Developer or Co-developers and enter into agreements for development of the Information Technology Investment Region.
- (f) It shall provide for promotion of investment, both foreign and domestic, into the Information Technology Investment Region.
- (g) It shall ensure promotion of production within and exports from the Information Technology Investment Region.
- (h) It shall have power to grant approvals for, and facilitating clearances to units within the Information Technology Investment Region.
- (i) It shall review the functioning and performance of the Information Technology Investment Region.
- (j) It shall regulate the levy of user or service charges or fees or rent for the use of infrastructure/properties in the Information Technology Investment Region.
- (k) It shall exercise authority to delegate, enter into or create Special purpose Vehicles (SPVs) for the specialized services within the Information Technology Investment Region.
- (l) It shall perform such other functions as may be prescribed.

(5) The Management Board shall meet at such times and places as may be appointed by it and shall regulate its own procedure.

(6) One third of the total members of the Management Board shall form a quorum and all the decision of the Management Board shall be decided by the majority of members present.

(7) No act or proceedings of the Board shall be called in question on the ground merely of existence of any vacancy in or any defect in the constitution of the Board.

(8) All orders and decisions of the Board and all other instruments issued by it shall be authenticated by the signature of chief executive officer.

9. Appointment of Chief Executive Officer of the Board.- The State Government shall appoint an officer belonging to cadre of Indian Administrative Service as the Chief Executive Officer of the Board. The Chief Executive Officer shall be the member secretary of the Board.

10. Functions, powers and duties of the Chief Executive Officer of the Board.- (1) Subject to the provisions of the Act and the rules made thereunder, the Chief Executive Officer shall,-

- (a) exercise administrative control over the officers and officials of the Board, subject to the general superintendence and control of the Vice-Chairman of the Board;
- (b) supervise and control the execution of all the works entrusted to him by the Board;
- (c) have custody of all papers and documents connected with the proceedings of the meetings of the Board;
- (d) draw and disburse monies out of the fund of the Board; and
- (e) perform such other functions as may be prescribed.

(2) The Chief Executive Officer shall attend every meeting of the Board and shall cause to record the proceedings of such meeting.

11. Officers and staff of the Board.- (1) Subject to such regulation as may be specified, the Board may appoint such officers and staff as are necessary for its purpose.

(2) The emoluments, allowances and other conditions of the service of the officers and staff referred to in sub-section (1), shall be such as may be specified by the Board under regulations.

12. Constitution of State Level Empowered Committee and its Function.- (1) The State Government shall constitute a State Level Empowered Committee consisting of the following, namely:-

- (a) The Hon'ble Chief Minister - Chairman
- (b) The Minister incharge of Information Technology and Bio Technology - Vice-Chairman
- (c) The Minister incharge of Large and Medium Industries. - Member
- (d) The Chief Secretary to Government of Karnataka - Member
- (e) The Principal Secretary to Government, Information Technology and Bio Technology - Member Secretary

(2) The State Level Empowered Committee shall perform the following functions, namely:-

- (a) It shall monitor, review and appraise the functions and the performance of the each of the Information Technology Investment Region; and
- (b) It shall deal with issues relating to disputes between the stakeholders; and
- (c) It shall perform any other functions as may be prescribed.

CHAPTER - V

BOARD'S FUND

13. Board's Fund.- (1) The Board shall have a fund called the Information Technology Investment Region Fund.

(2) The Board may accept grants, subventions, donations and gifts from the Central Government or the State Government or a local authority or any individual or body, whether incorporated or not, for all or any of the purposes of this Act.

(3) All moneys received by or on behalf of the Board by virtue of this Act, all proceeds of land or any other kind or property sold by the Board, all rents, and all interest, profits and other moneys accruing to the Board, shall constitute the Information Technology Investment Region Fund.

(4) Except as otherwise directed by the State Government, all moneys and receipts specified in the foregoing provisions and forming part of the fund of the Board shall be deposited in the Reserve Bank of India or in any Scheduled Bank or invested in such securities as may be approved by the State Government.

14. Application of the Fund.- Subject to the provisions of this Act, all the property and fund of the Board and all other assets vesting in the Board shall be held and applied by it for the purposes of this Act.

15. Account and audit.- (1) The Board shall maintain proper books of accounts and such other books as the rules under this Act may require, and shall prepare an annual statement of accounts in accordance with such rules.

(2) The Board shall cause its accounts to be audited annually by such persons as the State Government may direct.

(3) As soon as the accounts of the Board have been audited, the Board shall send a copy of thereof together with a copy of the report of the auditor thereon to the State Government; and shall cause the accounts to be published in the prescribed manner and place copies thereof on sale at a reasonable price. The audited accounts and the report shall be laid before each House of the State Legislature, as soon as may be after they are received by the State Government.

(4) The Board shall comply with such directions as the State Government may give after perusal of the accounts and report of the auditor.

16. Annual report.- The Board shall, after the end of each year prepare in such form and before such date as may be prescribed, a report of its activities during such year and submit to the State Government and the State Government shall cause a copy of such report to be laid before both Houses of the State Legislature.

CHAPTER - VI

Penalties

17. Penalties.- (1) If, at any time, the Board is of the opinion that a Developer,-

- (a) is unable to discharge the functions or perform the duties imposed on him, under the provisions of this Act or rules made thereunder; or
- (b) has persistently defaulted in complying with any direction given by the Board under this Act; or
- (c) has violated the terms and conditions of the agreement; or

- (d) whose financial position is such that he is unable to fully and efficiently discharge the duties and obligations imposed on him by the agreement and the circumstances exist, which render it necessary for it in public interest so to do,

the Board may, on application, or with the consent of the Developer, or otherwise, for reasons to be recorded in writing, suspend the agreement, granted to the Developer for a whole or part of his area established in the Information Technology Investment Region for a period not exceeding one year and may also proceed under sub-section (2).

(2) Whoever contravenes the provisions of the Act or the rules or the regulations made thereunder shall on conviction be punished with imprisonment for a term which may extend to one month or with a fine which may extend to fifty thousand rupees.

(3) A person convicted under sub-section (2), shall be liable to make good the loss caused to the Board failing which the amount may be recovered as an arrears of Land Revenue from such person.

18. Resumption of the possession of premises including the residential tenements on breach of terms or conditions of lease or holding without authority.- (1) Where the Board is of the opinion, that an allottee of any premises or part thereof or residential tenement in an industrial area or industrial estate has violated any of the terms or conditions of allotment or holds it without any authority, it may, without prejudice to section 17, issue notice to such allottee and Banks or Financial Institutions, in whose favour the Board has permitted the mortgage or leasehold rights of the premises, or residential tenement specifying the breaches of the terms and conditions of the allotment calling upon the allottee to remedy such breaches within a time, stipulated in the notice.

(2) If the allottee fails to remedy the breaches within the time so stipulated, the Board shall serve a notice upon the allottee under intimation to such Bank or Financial Institutions to show cause within thirty days from the date of service of notice, why the possession of the premises or part thereof or residential tenement should not be resumed.

(3) After considering the cause, if any, shown by the allottee and after giving him an opportunity of being heard, the Board may pass such orders, as it deems fit.

(4) Where the Board passes an order under sub-section (3), for resuming possession of the premises or part thereof including residential tenement in the industrial area it may, by notice in writing, order any allottee to surrender and deliver possession thereof to the Board or any person duly authorised in this behalf within the date specified in the notice.

(5) If any allottee refuses to surrender or deliver the possession of the premises or part thereof including residential tenement within the time specified in the notice, the Board or any officer authorised by it in this behalf may resume the possession of the premises or part thereof including residential tenement free from all encumbrances and for that purpose may use force as may be necessary".

19. Reference of dispute.- (1) If any dispute of civil nature arises between Board and Developers or Co-developers or units or entrepreneurs, among two or more Developers, Co-developers or between Developer and entrepreneurs or units in a Information Technology Investment Region, such dispute shall be referred to an arbitrator.

(2) The provisions of the Arbitration and conciliation Act, 1996 shall apply to all arbitration under this Act, as if the proceedings for arbitration were referred in settlement or decision under the provisions of the Arbitration and conciliation Act, 1996.

(3) The period of limitation in case of any dispute which is required to be referred to arbitration shall be regulated by the provisions of the limitation Act, 1963 as if the dispute was a suit and the arbitrator is a Civil Court.

20. Offences by companies.- (1) If the person committing an offence under this Act is a company, every person who at the time of the offence was committed was in charge of and responsible to the company for the conduct of its business as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purpose of this section,-

- (a) "company" means a body corporate and includes a firm or other association of individuals; and
- (b) "director" in relation to a firm means a partner in the firm.

CHAPTER - VII

MISCELLANEOUS

21. Recovery of sums due to the Board as arrears of land revenue.- All sums payable by any person to the Board or recoverable by it by or under this Act, and all charges paid or expenses incurred in connection therewith shall, without prejudice to any other mode of recovery, be recoverable, as an arrear of land revenue on the application of the Board.

22. Act to have overriding effect.- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of law other than this Act.

23. Protection of action taken in good faith.- No suit, prosecution or other legal proceedings shall lie against any person including Chairman or other members of the Management Board or State Level Empowered Committee or against State Government or any officer or employee of State Government in respect of anything which is in good faith done or intended to be done under this Act or any rule made there under.

24. Power to make rules.- (1) The State Government may, by notification, make rules for carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid as soon as may be, after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following both Houses agree to make any modification in the rule or both Houses agree that the rules should not be made the rules shall thereafter have effect only in such modified form or be of

no effect, as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

25. Power to make regulations.- The Board may with prior approval of the State Government make regulations consistent with this Act and rules made under this Act, such regulations shall provide,-

- (a) for regulating its procedure and the disposal of its business; and
- (b) for such other matters as may be deemed necessary.

26. Removal of difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, not inconsistent with the provisions of this Act remove the difficulties:

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of the Act.

The above translation of the ಕರ್ನಾಟಕ ಮಾಹಿತಿ ತಂತ್ರಜ್ಞಾನ ಹೂಡಿಕೆ ಪ್ರದೇಶಗಳ ಅಧಿನಿಯಮ, 2010 (2010ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ: 37) be published in the Official Gazette under clause (3) of Article 348 of the Constitution of India.

H.R.BHARDWAJ

GOVERNOR OF KARNATAKA

By Order and in the name of the Governor of Karnataka,

G.K. BOREGOWDA

Secretary to Government

Department of Parliamentary Affairs and Legislation